



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on March 1, 2005

Date of Meeting: September 7, 2004

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:32 p.m., on Tuesday, September 7, 2004, all members having been notified of the time and place thereof.

1. **ROLL CALL**

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Robert E. Walkup	Mayor

Absent/Excused:

Fred Ronstadt	Vice Mayor, Council Member Ward 6
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Staff Members Present:

James Keene	City Manager
Michael Rankin	City Attorney
Kathleen S. Detrick	City Clerk
Michael D. Letcher	Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Reverend Gerry Nangle, Johrei Fellowship, after which the pledge of allegiance was presented by the entire assembly.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 449, dated September 7, 2004, would be received into and made a part of the record. He announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Council Member Dunbar announced the First Annual Ward 3 Crime Prevention Block Party involving five neighborhoods.
- b. Council Member West announced the Ward 2 Fall Gazette was now available online, or individuals could stop by the Ward 2 Council Office and pick one up. On Wednesday, September 8, 2004 at 5:00 p.m. the student art mural would be unveiled at the Ward 2 Council Office, 7575 East Speedway.
- c. Mayor Walkup announced that the Federal Emergency Management Agency (FEMA) was looking for two Citizen Core Volunteers to travel to Florida for two weeks to aid with the hurricane cleanup.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 448, dated September 7, 2004, would be received into and made a part of the record. He asked for the City Manager's report.

James Keene, City Manager, introduced:

- a. Ron Lewis, the new Director of General Services.
- b. Fred Gray, the new Director of Parks and Recreation.

Mr. Keene then announced:

- c. On Tuesday, September 14, 2004, there would be a groundbreaking ceremony for the Pennington Street Garage, which was the first City of Tucson design-build project, the first fully solar-powered building downtown, and the first mixed-use retail project downtown.
- d. The musical "Movin' Out" will soon begin its run at the Tucson Convention Center, marking it as the first touring Broadway production to play in Tucson for a full week.

- e. The International Association of Chiefs of Police selected the Tucson Community Policing program as one of the 2004 finalists. They were ranked ninth out of one hundred thirty-five applicants chosen as finalists. The Salvation Army will be presenting an award to the Tucson Police Department School Resource Officers for their outstanding contributions to the community. Also, the National Association of Uniform Manufacturers awarded Tucson Police Department with an Outstanding Achievement Award for 2004 - Best Dressed Law Enforcement.

5. LIQUOR LICENSE APPLICATION(S)

Mayor Walkup announced City Manager's communication number 445, dated September 7, 2004, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

Kathleen S. Detrick, City Clerk, announced that under Item 5b there were two requests for new applications, both had received protests and would need to be considered separately. Special event liquor license 5c2 and 5c4 had protests filed and would also need to be considered separately.

b. New Licenses

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| 1. | Grant Mini Market
2727 E. Grant Road
Applicant: Asia A. Abdullah
City 042-04, Ward 3
Series 10
Action must be taken by: September 11, 2004
Public Opinion: Protests Filed
Considered separately | Staff Recommendation

Police: In Compliance
DSD: In Compliance
Revenue: In Compliance |
| 2. | Obregon Market
6352 and 6354 S. Nogales Hwy.
Applicant: Nancy J. Bigelow
City 045-04, Ward 1
Series 10
Action must be taken by: September 17, 2004
Public Opinion: Protests Filed
Considered separately | Staff Recommendation

Police: In Compliance
DSD: In Compliance
Revenue: In Compliance |

c. Special Events

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| 1. | Pantano Exchange Club
4440 S. Houghton Road
Applicant: Scott P. Little
City T059-04, Ward 4
Date of Event: October 9, 2004
(Fundraiser for Parent Aid Child Abuse Prevention Center) | Staff Recommendation

Police: In Compliance
DSD: In Compliance |
| 2. | Altrusa International, Inc., Of Tucson
2150 N. Alvernon Way
Applicant: Marion V. Johnson
City T060-04, Ward 6
Date of Event: October 8, 2004
(Fundraiser for Scholarships & Literacy Projects)
Public Opinion: Protest Filed | Staff Recommendation

Police: In Compliance
DSD: In Compliance |
| Considered separately | | |
| 3. | St. Demetrios Greek Orthodox Church
1145 E. Ft. Lowell Road
Applicant: Susan Parker-Hotchkiss
City T061-04, Ward 3
Date of Event: September 23 through 26, 2004
(Fundraising) | Staff Recommendation

Police: In Compliance
DSD: In Compliance |
| 4. | St. Melany Byzantine Catholic Church
1212 N. Sahuara Avenue
Applicant: Robert A. Rankin
City T062-04, Ward 6
Date of Event: October 1 and 2, 2004
(Tucson Slavic Festival)
Public Opinion: Protests Filed | Staff Recommendation

Police: In Compliance
DSD: In Compliance |
| Considered separately | | |
| 5. | The Church Of St. Michael And All Angels
602 N. Wilmot Road
Applicant: John R. Smith
City T063-04, Ward 2
Date of Event: September 24 and 25, 2004
(Fundraiser) | Staff Recommendation

Police: In Compliance
DSD: In Compliance |
| 6. | Comite De Festividades Mexicanas
3700 S. La Cholla Blvd.
Applicant: Mercedes M. Guerrero
City T064-04, Ward 1
Date of Event: September 10 through 12, 2004
(Celebrate Mexican Independence Day) | Staff Recommendation
Police: In Compliance
DSD: In Compliance
Parks: In Compliance |

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| 7. | Tucson Museum Of Art
140 N. Main Avenue
Applicant: Charlie E. Bodden
City T072-04, Ward 1
Date of Event: September 10, 2004
(Exhibition Opening, Tony Furtado Concert) | Staff Recommendation

Police: In Compliance
DSD: In Compliance |
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Mayor Walkup asked the Council's pleasure.

It was moved by Council Member Dunbar, duly seconded, and passed by a voice vote of 6 to 0, (Council Member Ronstadt absent/excused), that liquor license applications 5c1, 5c3, 5c5, 5c6, and 5c7 be forwarded to the Arizona State Liquor Board with a recommendation for approval.

b. New Licenses

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| 1. | Grant Mini Market
2727 E. Grant Road
Applicant: Asia A. Abdullah
City 042-04, Ward 3
Series 10
Action must be taken by: September 11, 2004
Public Opinion: Protests Filed | Staff Recommendation

Police: In Compliance
DSD: In Compliance
Revenue: In Compliance |
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Ms. Detrick announced that the first item to be considered separately was 5b1, Grant Mini Market, 2727 E. Grant Road. It carried a staff recommendation for approval, however protests had been filed. It is located in Ward 3.

Mayor Walkup recognized Council Member Dunbar.

Council Member Dunbar said that the applicant was present and they wanted to come forward and speak on this issue.

Ibrahim Abdullah, Asia Abdullah's husband, the owner of Grant Mini Market, said that he wanted to say that this was on Grant Road. He use to manage the store for five years, the same liquor license that he had on the south side, which was a retail market and he had it for four years with no problem. Nothing ever happened, he never had any violations or anything. Now they want that site because, it was not really a liquor license, it was only beer and wine. It was only going to be mostly a convenience store selling all kinds of food, milk and ninety-nine cent stuff. They were going to help the community. He said that he would be participating in the neighborhood association. He would hire four employees, and then he would donate whatever he could for any organization or humanities in that area. So he said he did not know why there was protest. He said that Grant Road was made for businesses. If the Mayor and Council were not going to approve a business on Grant Road, where would the council approve it.

Council Member Dunbar said that she had one question for Mr. Abdullah before he sat down. She asked if he could tell her, because part of getting a liquor license was that they had a burden of proof of how this liquor license would benefit the neighborhood.

Mr. Abdullah said that this was a convenience store. Anybody who needed to buy something that needed to buy one or two items, they would come to the store. He planned to donate and he would participate and be a member of the neighborhood association and then he would donate some money to the association. He would donate to the charities and he would hire four people. He already hired them. They were eighteen to twenty-one years old and they did not have a job; they were looking for a job. They were telling their dads and moms and when he opened the store, he promised that he would hire. He would hire four people maybe more and two part-time.

Council Member Dunbar said there was also a Marilyn Malone that was in the audience.

Marilyn Malone said that she was the property owner, and Ibrahim may be her next tenant. Her husband has had a print shop in that building for thirty-five years and the other two establishments they had rented for the last fifteen, since they bought the building. So even though she no longer lives in the City of Tucson, she use to. She lives in the county now. As a former Tucson Police Officer, probably not one of the best dressed, she was at the Tucson Police Department for sixteen years as an officer and a child abuse detective. She said she understood the problems that people can have with alcohol. However, Ibrahim was primarily going to run a convenience store. It was up to the Mayor and Council, but Ibrahim was a good man, and he had run a store in the past on the south side with no problems. He has seven or nine children, and has raised them well. He intends to run a decent business establishment and she said as the landlord, that was also her interest. She thanked the Mayor and Council for any consideration that the council could give to him to open a convenience store at that location.

Council Member Dunbar thanked Ms. Malone and said she had a couple of protest letters and asked if any of the protestors from the neighborhood were in the audience. She said that she did not see any of the protestors in audience; she asked if any were present.

Council Member Dunbar said that for a new liquor license, the burden of proof on how it would benefit the area was put upon the person who was applying for the license. For the past two years the Mayor and Council has denied every new license in that area. She wanted to point out that it was on Grant Road and in the University of Arizona area. The Mayor and Council had heard a very compelling presentation regarding the power of use of alcohol in this area. There were many locations where one could buy beer, wine and alcohol. She could not see, nor had the applicant shown her when she asked the question of the applicant, that he understood what the question of benefit was, or what it meant. She asked the applicant to explain to her to how he was going to fulfill a need in

the community. Ward 3 has the highest number of robberies, carjackings, and within a couple of miles of them they had murders in Ward 3. She said that she could not see how this license would in any way improve this community, so she said she would ask for a denial.

It was moved by Council Member Dunbar, duly seconded, and passed by a voice vote of 6 to 0, (Vice Mayor Ronstadt absent/excused), that liquor license application 5b1 be forwarded to the Arizona State Liquor Board with a recommendation for denial.

b. New Licenses

2.	Obregon Market	Staff Recommendation
	6352 and 6354 S. Nogales Hwy.	
	Applicant: Nancy J. Bigelow	Police: In Compliance
	City 045-04, Ward 1	DSD: In Compliance
	Series 10	Revenue: In Compliance
	Action must be taken by: September 17, 2004	
	Public Opinion: Protests Filed	

Ms. Detrick announced that the next item to be considered separately was 5b2, Obregon Market, 6352 & 6354 S. Nogales Hwy. It carried a staff recommendation for approval; however, protests had been filed. It is located in Ward 1.

Mayor Walkup recognized Council Member Ibarra.

Council Member Ibarra asked the applicant to come forward, and also asked Yolanda Herrera LaFond to come forward.

Nancy Bigelow, the applicant for the license of Obregon Market, said that she moved here in March from Los Angeles. She sold a house there and bought a house here in Tucson, and had tried to establish a business. They bought out a market and they had spent everything in getting this market going, and without a liquor license they were not going to make it. It was a convenience store; they spent a lot of money on taxes and other things. She said she did not see how it would be a detriment to anyone, as they were a convenience store selling milk and things, and they would be open 9:00 a.m. to 9:00 p.m. They have very strict rules; they would not be selling liquor to minors or anything. They were following all the rules, trying to do everything as straight as they could. She would appreciate getting the license so that they could stay in business.

Council Member Ibarra called on Yolanda Herrera from the Sunnyside Neighborhood Association.

Yolanda Herrera La Fond said that she was present on behalf of the Sunnyside Neighborhood Association, one of Tucson's largest and most active neighborhood associations. As shown by the 2000 Census, they were in a high stress area. Today the Mayor and Council heard and received information on a study conducted on addiction

treatment and prevention by a commission, and the work done by an ad hoc committee to reduce underage drinking. As a call to action to reduce underage drinking in Pima County, the study indicates the more drinking establishments, the higher the levels of stress. There have been other studies by the University of Arizona Office of Public Health, working with the Sunnyside and Elvira Neighborhoods, which also confirmed the negative impacts with an over saturation of liquor establishments. This particular location had already experienced a violent killing prior to its opening. How much higher did the Mayor and Council want crime to rise? She said that they did not believe another liquor license was in the best interest of this neighborhood and the surrounding area. She asked that the Mayor and Council deny this liquor license.

Council Member Ibarra said that this one was like the one Council Member Dunbar was talking about; a new license and it bears the burden of proof. It puts the burden on the applicant to show that it was a public convenience and that it was an under-served area. On the contrary, this was a saturated location of liquor licenses that had been there for years. He said he could not explain it better than Ms. Herrera La Fond because there had been many incidents around that area.

It was moved by Council Member Ibarra, duly seconded, and passed by a voice vote of 6 to 0, (Vice Mayor Ronstadt absent/excused), that liquor license application 5b2 be forwarded to the Arizona State Liquor Board with a recommendation for denial.

Mayor Walkup recognized Council Member Dunbar.

Council Member Dunbar said what they had heard tonight was people who were trying to start new businesses. She wanted to say that if one was considering putting in a new grocery store or a mini-market and they want a beer or alcohol license, then they need to do their market research to find out if that area was over-serviced with beer or wine establishments. She thought that the Mayor and Council had proven over the last couple of years that the Mayor and Council really weigh very carefully issuing new licenses. It was their responsibility, when putting in a new business, to make sure that it would be wanted and accepted by the neighborhood.

Mayor Walkup agreed that individuals needed to do research.

c. Special Events

2.	Altrusa International, Inc., Of Tucson	Staff Recommendation
	2150 N. Alvernon Way	
	Applicant: Marion V. Johnson	Police: In Compliance
	City T060-04, Ward 6	DSD: In Compliance
	Date of Event: October 8, 2004	
	(Fundraiser for Scholarships & Literacy Projects)	
	Public Opinion: Protest filed	

Kathleen S. Detrick, City Clerk, announced the next item to be considered separately was a special event license, Item 5c2, Altrusa International Inc, of Tucson. It carried a staff recommendation for approval; however, a protest had been filed. The applicant had checked in, but she had not heard from the protestor. The license is located in Ward 6.

Council Member West asked Ms. Hedd to please come forward.

Ms. Hedd, President of Altrusa International Incorporated of Tucson, said they were a fundraiser event organization, primarily funding scholarship and literacy programs. They had a wine and cheese tasting event at Tucson Botanical Gardens for the last five years, and they never had a problem. This was the first time they had to come to a Mayor and Council meeting to get a liquor license, but one person in the neighborhood protested. They had this event for the last five years and there were usually less than a hundred people. The event was held from 5:30 p.m. to 7:30 p.m. It was just a wine tasting; individuals were not even given a full glass of wine. They would sample three types of wine and champagne and the evening would be over by eight.

Council Member West asked if they tried to keep it at a dull roar.

Ms. Hedd replied that she was probably the youngest person there.

Council Member West asked if the protestor, Josephine Morgan, was present. There was no response.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 6 to 0, (Vice Mayor Ronstadt absent/excused), that liquor license application 5c2 be forwarded to the Arizona State Liquor Board with a recommendation for approval.

c. Special Event

4.	St. Melany Byzantine Catholic Church	Staff Recommendation
	1212 N. Sahuara Avenue	
	Applicant: Robert A. Rankin	Police: In Compliance
	City T062-04, Ward 6	DSD: In Compliance
	Date of Event: October 1 and 2, 2004	
	(Tucson Slavic Festival)	

Kathleen S. Detrick, City Clerk, announced the next item to be considered separately was a special event license, Item 5c4, a request by St. Melany's Byzantine Catholic Church. It carried a staff recommendation for approval, however a protest had been filed. Neither the applicant nor the protestor had checked in. The license is located in Ward 6.

Mayor Walkup recognized Council Member West.

Council Member West asked if the applicant would state what their intentions were as far as the event was concerned.

Jeff Hill said he was a parishioner at St. Melany Byzantine Catholic Church and this was their third Tucson Slavic Festival. The benefit for the festival was the church building fund. They had purchased a Protestant church ten to fifteen years ago and then they ran out of money. This was the way they were trying to raise money to try to make it look like a traditional Eastern Catholic Church. The two people who protested mentioned about liquor licenses and all they would be selling would be beer. The festival was going to be on Friday night, 5:00 p.m. to 9:00 p.m., and they cut the hours down on Saturday, from 12:00 p.m. to 9:00 p.m. They had the support of the homeowner's association. They would have less than one thousand people attend. They did not feel that it was an adverse impact on the two ladies who complained. They were somewhat down the block and they would keep it pretty much together at the church.

Council Member West asked if either Sheryl McDermitt or Ms. Golandus were present. There was no response.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 6 to 0, (Vice Mayor Ronstadt absent/excused), that liquor license application 5c4 be forwarded to the Arizona State Liquor Board with a recommendation for approval.

6. CONSENT AGENDA ITEMS A THROUGH V

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda and to be sure to notify the audience of the removal of three of the items.

Kathleen S. Detrick, City Clerk, announced that the pre-annexation items that were on the agenda had been continued to the meeting of September 13, 2004. Members of the public who had come regarding those items were welcome to speak at the call to the audience, which would follow the Consent Agenda.

A. ASSURANCE AGREEMENT: (S03-016) BARRIO ESCALANTE SUBDIVISION LOTS 1 TO 46 AND COMMON AREAS "A", "B", "C" AND "D"

1. Report from City Manager SEPT7-04-450 W4
2. Resolution No. 19918 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S03-016 of a final plat for the Barrio Escalante Subdivision, Lots 1 to 46 and Common Areas "A" – "D"; and declaring an emergency.

- B. FINAL PLAT: (S03-016) BARRIO ESCALANTE SUBDIVISION LOTS 1 TO 46 AND COMMON AREAS “A”, “B”, “C” AND “D”
1. Report from City Manager SEPT7-04-446 W4
 2. The City Manager recommends that, after the approval of the Assurance Agreement, the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- C. FINAL PLAT: (S03-008) KLETETCHKA CONDOMINIUMS SUBDIVISION UNITS 1 TO 8 AND COMMON AREAS “A” AND “B”
1. Report from City Manager SEPT7-04-447 W3
- Item C was continued to the meeting of September 13, 2004 at the request of staff.
- D. FINAL PLAT: (S03-037) COLINAS DE ORO PHASE II SUBDIVISION LOTS 139 TO 147 AND COMMON AREAS “A” AND “B”
1. Report from City Manager SEPT7-04-451 W1
 2. The City Manager recommends that the Mayor and Council approve the final plat as presented. A performance bond has been submitted as required to complete assurable items. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.
- Item D was considered separately at the request of Council Member Ibarra.
- E. AGREEMENT: AMENDMENT TO THE LICENSE AGREEMENT WITH LEVEL 3 COMMUNICATIONS, LLC
1. Report from City Manager SEPT7-04-454 CITY-WIDE
 2. Ordinance No. 10024 relating to interstate telecommunications, authorizing the second amendment to the non-exclusive right-of-way license pursuant to Tucson Code § 7B-36 to Level 3 Communications, LLC, a Delaware Corporation; and declaring an emergency.
- F. REAL PROPERTY: ACQUISITION OF PROPERTY FOR A POTABLE WATER SUPPLY WELL NEAR WILMOT ROAD AND SOUTH OF INTERSTATE 10
1. Report from City Manager SEPT7-04-453 OUTSIDE CITY

2. Resolution No. 19919 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property in the vicinity of Wilmot Road and south of Interstate 10 for a potable water supply well; and declaring an emergency.
- G. REAL PROPERTY: APPROVING A LEASE AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION FOR A PORTION OF WILMOT ROAD RIGHT OF WAY
1. Report from City Manager SEPT7-04-462 W4
 2. Ordinance No. 10025 relating to real property; authorizing and approving a lease of a certain portion of Wilmot Road rights-of-way to the United States of America for a reflector support as part of the airport surveillance radar system at Davis-Monthan Air Force Base, and declaring an emergency.
- H. REAL PROPERTY: EXCHANGE OF CITY OWNED REAL PROPERTY WITH PIMA COUNTY AT JAMES THOMAS PARK
1. Report from City Manager SEPT7-04-461 W5
 2. Ordinance No. 10026 relating to real property; authorizing and approving an agreement for the exchange of certain portions of James Thomas Park to Pima County for a County owned property adjacent to James Thomas Park; declaring an emergency.
- I. AGREEMENT: BETWEEN FRY FIRE DISTRICT, OTHER QUALIFIED AGENCIES, AND TUCSON FIRE DEPARTMENT TO PROVIDE CLINICAL FIELD EDUCATION
1. Report from City Manager SEPT7-04-459 CITY-WIDE
 2. Resolution No. 19920 relating to the fire department and emergency medical services; authorizing and approving an agreement between the City of Tucson, acting through the Tucson Fire Department (“TFD”), and the Fry Fire District, for TFD emergency medical service (“EMS”) personnel to provide EMS field education (“ride alongs”) to Fry Fire District EMS personnel; ratifying the Fire Chief’s previous signing of the agreement on behalf of the City of Tucson, and authorizing and directing the City Clerk to attest the Fire Chief’s signature on the agreement; also authorizing the Fire Chief, or that officer’s designee, to enter into and execute, and the City Clerk to attest, similar agreements, in substantially the same form, and under the same terms and conditions, with other

qualified agencies, departments, and jurisdictions, during the period through and including June 30, 2009; and declaring an emergency.

J. INTERGOVERNMENTAL AGREEMENT: WITH ORO VALLEY FOR SUN TRAN FIXED-ROUTE SERVICE AND ADA PARATRANSIT CERTIFICATIONS

1. Report from City Manager SEPT7-04-464 CITY-WIDE
2. Resolution No. 19921 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Oro Valley for the provision of Fixed-Route service (Sun Tran) and ADA Paratransit Certifications; and declaring an emergency.

K. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR THE PROVISION OF FIXED-ROUTE SERVICE (SUN TRAN), ADA PARATRANSIT SERVICES (VAN TRAN), ADA PARATRANSIT CERTIFICATION, LOW FARE CERTIFICATION AND VOUCHER SALES

1. Report from City Manager SEPT7-04-465 CITY-WIDE
2. Resolution No. 19922 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Pima County for the provision of Fixed-Route service (Sun Tran), ADA Paratransit Service, ADA Paratransit Certification, low fare certification and voucher sale; and declaring an emergency.

L. REAL PROPERTY: SALE OF SURPLUS PROPERTY LOCATED IN LA ENTRADA PLANNED AREA DEVELOPMENT TO RELIANCE COMMERCIAL CONSTRUCTION DBA PRESIDIO TERRACE LIMITED LIABILITY CORPORATION

1. Report from City Manager SEPT7-04-458 W1
2. Ordinance No. 10031 relating to real property; vacating and declaring certain City owned property known as Lot 7 in Section 12 of the La Entrada Planned Area Development to be surplus and authorizing and approving the substance of a contract for sale of said property between the City of Tucson and Reliance Commercial Construction DBA Presidio Terrace Limited Liability Corporation (LLC) or assigns for the property and declaring an emergency.

M. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH O.T. ADOBE L.L.C.

1. Report from City Manager SEPT7-04-471 OUTSIDE CITY
2. Resolution No. 19923 relating to annexations; authorizing and approving the execution of a Pre-Annexation and Development Agreement between the City of Tucson and O.T. Adobe L.L.C.; and declaring an emergency.

Item M was continued to the meeting of September 13, 2004 per the direction given during Study Session, Item 1.

N. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH FIDELITY NATIONAL TITLE AGENCY, INC.

1. Report from City Manager SEPT7-04-475 OUTSIDE CITY
2. Resolution No. 19929 relating to annexation; authorizing and approving the execution of a pre-annexation and development agreement between the City of Tucson and Fidelity National Title Agency, Inc., an Arizona Corporation, as Trustee under Trust Nos. 60,070 and 60,071 (Sycamore Canyon); and declaring an emergency.

Item N was continued to the meeting of September 13, 2004 per the direction given during Study Session, Item 1.

O. PRE-ANNEXATION AND DEVELOPMENT AGREEMENTS: WITH THE NEW TUCSON UNIT 2 HOMEOWNERS ASSOCIATION, INC., NEW TUCSON UNIT 5 HOMEOWNERS ASSOCIATION, INC., AND NEW TUCSON UNIT 8 HOMEOWNERS ASSOCIATION, INC.

1. Report from City Manager SEPT7-04-473 OUTSIDE CITY
2. Resolution No. 19926 relating to annexations; authorizing and approving the execution of a pre-annexation and development agreement between the City of Tucson and the New Tucson Unit 2 Homeowners Association, Inc.; and declaring an emergency.
3. Resolution No. 19927 relating to annexations; authorizing and approving the execution of a pre-annexation and development agreement between the City of Tucson and the New Tucson Unit 5 Homeowners Association, Inc.; and declaring an emergency.

4. Resolution No. 19928 relating to annexations; authorizing and approving the execution of a pre-annexation and development agreement between the City of Tucson and the New Tucson Unit 8 Homeowners Association, Inc.; and declaring an emergency.

Item O was continued to the meeting of September 13, 2004 per the direction given during Study Session, Item 1.

P. REAL PROPERTY: CONVEYANCE OF SURPLUS CITY PROPERTY AT 629 WEST MABEL TO CHICANOS POR LA CAUSA

1. Report from City Manager SEPT7-04-472 W3
2. Ordinance No. 10033 relating to real property; vacating and declaring certain City-owned real property at 629 West Mabel in the Barrio Blue Moon Neighborhood, Tucson, Arizona, to be surplus, and authorizing the conveyance thereof to Chicanos Por La Causa; and declaring an emergency.

Q. REAL PROPERTY: DEDICATION OF CERTAIN PORTIONS OF CITY-OWNED PROPERTY AS RIGHTS-OF-WAY

1. Report from City Manager SEPT7-04-474 W1 & W3
2. Ordinance No. 10032 relating to real property; dedicating certain portions of City owned real property in the vicinity of 1st Avenue and River Road, Calle Adelanto and Fairview Avenue, Speedway Boulevard and Columbia Avenue, and Speedway Boulevard and Riverside Avenue as rights-of-way, and declaring an emergency.

R. AGREEMENT: WITH THE PIMA COUNTY FLOOD CONTROL DISTRICT AND THE US ARMY CORPS OF ENGINEERS FOR THE EL RIO MEDIO FEASIBILITY STUDY OF THE SANTA CRUZ RIVER (CONTINUED FROM MEETING OF AUGUST 2, 2004)

1. Report from City Manager SEPT7-04-467 W1 & W3
2. Resolution No. 19916 relating to water; approving and authorizing execution of The El Rio Medio "Feasibility Study of the Santa Cruz River and Feasibility Cost Sharing Agreement" between the City of Tucson, Pima County Flood Control District, and the United States Army Corps of Engineers and an Intergovernmental Agreement between the City of Tucson and the Pima County Flood Control District for reimbursement of local match costs arising from the El Rio Medio Feasibility Study; and declaring an emergency.

Item R was continued at the request of staff.

S. REAL PROPERTY: LEASE AGREEMENT WITH ARTFARE.ORG FOR PROGRAM SPACE AT THE MUSE COMMUNITY ARTS CENTER

1. Report from City Manager SEPT7-04-477 W6
2. Ordinance No. 10034 relating to real property; authorizing and approving the execution of a sublease agreement of program space at the Muse Community Arts Center from ArtFare.Org; and declaring an emergency.

T. AGREEMENTS: WITH MUNICIPAL FIRE DEPARTMENTS AND FIRE DISTRICTS WITHIN PIMA COUNTY FOR MUTUAL AID RESPONSE TO EMERGENCY AND HAZARDOUS MATERIALS INCIDENTS

1. Report from City Manager SEPT7-04-460 CITY-WIDE
2. Resolution No. 19930 relating to the fire department; authorizing and approving Mutual Aid Agreements between: (1) the Tucson Fire Department and other municipal fire departments and fire districts within Pima County, to provide countywide “all hazard” mutual aid response for all types of emergency incidents (Attachment A); and (2) the Tucson Fire Department and the Northwest, Green Valley, Golder Ranch, and Drexel Heights Fire Districts, to provide countywide mutual aid response for hazardous materials incidents (Attachment B); ratifying the Fire Chief’s previous signing of both these agreements on behalf of the City of Tucson; authorizing and directing the City Clerk to attest the Fire Chief’s signature on both these agreements; and declaring an emergency.

U. RIO NUEVO: AGREEMENT WITH THE RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT, CONGRESS STREET INVESTORS, LLC AND THE CONGRESS STREET HISTORIC THEATRES FOUNDATION FOR THE PURCHASE, RESTORATION AND OPERATION OF THE RIALTO THEATRE

1. Report from City Manager SEPT7-04-452 W6
2. Resolution No. 19931 relating to the Rialto Theatre; authorizing and approving the execution of an Intergovernmental, Development and Lease Agreement among the City of Tucson, the Rio Nuevo Multipurpose Facilities District, Congress Street Investors, L.L.C., and the Congress Street Historic Theatres Foundation for the purchase of the Rialto Theatre; and declaring an emergency.

V. INTERGOVERNMENTAL AGREEMENTS: WITH PIMA COUNTY FOR BOND FUNDED IMPROVEMENTS FOR THE KINO PARKWAY OVERPASS AT 22ND STREET AND BROADWAY BOULEVARD FROM EUCLID AVENUE TO CAMPBELL AVENUE

1. Report from City Manager SEPT7-04-479 W5 & W6
2. Resolution No. 19932 relating to transportation; authorizing and approving the Intergovernmental Agreements between the City of Tucson and Pima County, for bond funded improvements to the intersection of 22nd Street and Kino Parkway and Broadway Boulevard from Euclid Avenue to Campbell Avenue; and declaring an emergency.
Item V was considered separately at the request of Council Member Leal.

Mayor Walkup asked the Council's pleasure.

It was moved by Council Member West, duly seconded, that Consent Agenda Items A through U, with the exception of Items C, M, N, O and R, which would be continued, and Items D and V, which would be considered separately, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;
Mayor Walkup

Nay: None

Absent/Excused Vice Mayor Ronstadt

Consent Agenda Items A through U, with the exceptions of Items C, D, M, N, O, R, and V were declared passed and adopted by a roll call vote of 6 to 0.

D. FINAL PLAT: (S03-037) COLINAS DE ORO PHASE II SUBDIVISION LOTS 139 TO 147 AND COMMON AREAS "A" AND "B"

Kathleen S. Detrick, City Clerk, announced that Council Member Ibarra asked for Item D to be considered separately.

Mayor Walkup recognized Council Member Ibarra.

Council Member Ibarra asked Ernie Duarte, Development Services Director, to come forward. He wanted to make sure that Mr. Duarte had received a letter from Donald Cerrell of the Ryan Ranch Homeowners Association and in the letter he said he was okay with the item. Council Member Ibarra read from Mr. Cerrell's letter: "The

meeting was held on schedule, and I am happy to report that U.S. Home Corporation has agreed to abide by the original agreement dated June 23, 2003.”

Mr. Duarte said they did receive a copy of the letter.

Council Member Ibarra said that now the neighborhood was okay with it.

It was moved by Council Member Ibarra, duly seconded, that Consent Agenda Item D be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;
Mayor Walkup

Nay: None

Absent/Excused Vice Mayor Ronstadt

Consent Agenda Item D was declared passed and adopted by a roll call vote of 6 to 0.

V. INTERGOVERNMENTAL AGREEMENTS: WITH PIMA COUNTY FOR BOND FUNDED IMPROVEMENTS FOR THE KINO PARKWAY OVERPASS AT 22ND STREET AND BROADWAY BOULEVARD FROM EUCLID AVENUE TO CAMPBELL AVENUE

Kathleen S. Detrick, City Clerk, said that the final item to be considered separately was Item V and it was removed by Council Member Leal.

Mayor Walkup recognized Council Member Leal.

Council Member Leal said it had been requested of him by a number of his constituents that this item be continued so the Mayor and Council, and Council Member Leal could have a meeting with some interested parties and constituents on the south side concerning Twenty Second Street.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 6 to 0, (Vice Mayor Ronstadt absent/excused), that Consent Agenda Item V be continued for two or three weeks.

7. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a

public hearing. Speakers would be limited to three-minute presentations. He said there were a number of speakers.

- a. Michael Toney submitted a petition to the Mayor and Council requesting an investigation of the University of Arizona's selection of an architect to for the Science Center.
- b. Bill Katzel provided the Mayor and Council with an update to the Platinum Challenge.
- c. Patty Kuvik spoke in opposition to Corona de Tucson being annexed into the City.
- d. Roger Meeker spoke in opposition to Corona de Tucson being annexed into the City.
- e. Renee Kleckner spoke in opposition to Corona de Tucson being annexed into the City.
- f. Doralina Martinez expressed concerns regarding the impact that Modifications to the International Building Codes, Regular Agenda Item 8, could have on home daycare providers.
- g. Bob Olfast spoke in opposition to Corona de Tucson being annexed into the City.
- h. Steve Fulmer spoke in opposition to Corona de Tucson being annexed into the City.
- i. Shirley Stewart spoke in opposition to Coronoa de Tucson being annexed into the City.
- j. Sean Smith spoke in opposition to Corona de Tucson being annexed into the City.
- k. Anthony Hollers spoke in opposition to rezoning case C9-94-18, Southwest Value Partners, Regular Agenda Item 10.
- l. Jeff Bleecker spoke in opposition to rezoning case C9-94-18, Southwest Value Partners. Regular Agenda Item 10.
- m. Yolanda Herrera spoke in support of rezoning case C9-94-18, Southwest Value Partners, Regular Agenda Item 10.

8. PUBLIC HEARING: TUCSON CODE AMENDING (CHAPTER 6), ADOPTION OF THE 2003 INTERNATIONAL BUILDING AND RESIDENTIAL CODES WITH LOCAL MODIFICATIONS

Kathleen S. Detrick, City Clerk, announced there had been a request for a Spanish language translator and Denise Elias was present for those needing assistance. Ms. Detrick asked Ms. Elias to come to the microphone to identify herself.

Ms. Elias made the announcement in Spanish saying she was the Spanish translator.

Mayor Walkup announced City Manager's communication number 476, dated September 7, 2004, would be received into and made a part of the record. He announced this was the time and place legally advertised for a public hearing on the adoption of the *2003 International Building and Residential Codes* with local modifications. The public hearing was scheduled to last for no more than one hour. Before the public hearing, staff would make a brief presentation. He called on the City Manager.

James Keene, City Manager, asked Ernie Duarte, Development Services Director, to give the staff presentation.

Ernie Duarte, Development Services Director, said there were two items on the Agenda, Items 8 and 9, which were updates to the *International Building Code* and *International Fire Code*. This item was the tri-annual update of the local *International Building and International Residential Codes*. The update was needed to help Tucson keep pace with National Building Code Administration. In addition, there were local amendments to the Code that were considered to meet the specific needs of the Tucson building community. The most notable change was in the local amendments dealing with building code amendments, building code provisions, and child care businesses in homes. The Mayor and Council would recall, as Ms. Martinez had pointed out earlier (see Call to the Audience, Item 7f), that providers contacted the Council early this spring due to difficulties in obtaining certificates of occupancy for their use. Previous versions of the *International Codes* allowed for care for only up to six children in a home.

Mr. Duarte added that care for more than six children often triggered commercial building type of provisions such as ADA (Americans with Disabilities Act) requirements and modifications. Sometimes it required fire alarms, fire sprinklers, or even parking lot and landscaping requirements. These requirements were consistent across the Tucson community, as well as other jurisdictions throughout the state. After meeting with the daycare providers in April and hearing their concerns, they took the issue up with the State Fire Marshals. A careful analysis with that particular use, combined with a lack of history of accidents or fire incidents, supported raising the limit of children cared for in a home to ten. This new limit was consistent with the City of Tucson *Land Use Code*, which allowed for childcare for up to ten children as a home occupation. If the Mayor and Council approve this amendment childcare for up to ten children could be provided in a home as long as the home meets the minimum building safety requirements for a

house. In most cases no sprinklers, no ramps, no ADA modifications, and no architects would be required.

Mr. Duarte said another change to the local building code included the movement of the existing grading requirements from the building code to the development standards. The placement in the development standards would be more appropriate and in that these standards applied to the grading of the site verses the grading under a building. The technical language remained unchanged. All proposed changes before the Mayor and Council on the agenda had extensive review by individuals representing various building safety interests. These included the Tucson Fire Department, the Building Owners and Managers Association, Southern Arizona Home Builders Association, the Arizona Multi-Housing Association, the American Institute of Architects, daycare providers, and the Mayor and Council joint Building Code Committee. If approved, the Code changes would become effective immediately.

Mayor Walkup thanked Mr. Duarte and said he had two speaker cards. Speakers would be limited to five-minute presentations. He also asked that the speakers state their name, address, whether or not they live in the city, whom they would be representing and whether or not they would be a paid speaker.

Doralina Martinez, Family Home Childcare Providers, said the only clarifications that they had was for two-story homes. Mr. Duarte met with them August 16 or 17, 2004. Basically what he proposed was that he gave them a checklist for a daycare operator in a one-story home or residence. He informed them it would require zoning compliance permits. They would need to provide a site plan and floor plan that would not need an architect's seal of approval. The Development Services approval plan would be given once the zoning compliance was met. All rooms occupied by children must have working smoke alarms, which were already required, and appropriate exiting for direct access in and out of the building. The concern they had was for the two-story homes. They were not very clear on the Disability Act, because from what she could understand it was a broad definition. She understood they would have to have a three-foot pivot area in the bathroom, and that was not what most people had at home. She wanted to point out that most people were not qualified to take care of children with physical disabilities, and parents of children with physical disabilities had a good head on their shoulders for choosing providers for their children with physical disabilities. One thing that she did not understand was why the requirements for the one-story home levels would be different from the two-story home levels. It was very unclear to her.

Ms. Martinez said that two-story home providers would be required to have an architect's plan, and this did not make sense to her, as it would be an additional expense. They had already asked around and it would not be cheap. There would also be a requirement for disability access and that was a very broad definition. They wanted a more detailed idea of what would be required. As most providers could confirm, most get paid twenty dollars a day to take care of a child. She asked the Council to do the math and base it out of that. They could not afford to hire an architect, and the additional expenses that would be required from the providers that had two-story homes. It would

be a lot of work and as most people knew, taking care of children at home was the most underpaid job nationwide. Their parents were parents who decided to have their children in a family atmosphere. By making these changes in the two-story homes, they felt that they would look like institutions.

With the group home providers, the program was started basically as a special program for childcare at home that provided a family atmosphere. It was not a commercial daycare center. A lot of these parents preferred that, instead of taking them to a commercial center. She thought, as a parent that they should not take that away from the parent. She thought parents had a right to choose where they had their kids. If the Mayor and Council approved these additional expenses on the two-story home providers, then it would close some of them, because it would be a huge expense. They would be looking at around a twenty thousand dollar expense. They wanted to address this to the Mayor and Council and ask for them to reconsider those additional expenses on the two-story homes.

Sibieanne Smith, said that she was there because when they had a meeting in April it became very heated. She said that she really applauded Mr. Duarte; he was awesome, he respected them. She had been a childcare provider for twenty-two years and a childcare provider advocate for much longer. She wanted to echo what Doralina said, plus the fact that in Arizona childcare was not a regulated service. It was strange for them to have this zoning issue. They understood that for six children it was okay, but with more than six children they had to have regulations from the Department of Health, which they do. Under six children, they had the Department of Economic Security. That worked out really well for them. They appreciated how the one-story homes were placed in perspective as to what was not needed, because they exceeded any of the regulations that had been put forth in the draft.

Regarding group homes having more than ten children in a one-story building, at the end they would exceed those requirements. But on the two-story homes, if the home had been pre-existing then Ms. Smith thought that they should be grandfathered in or left alone. They realized that with new construction, that gives handicapped access, as they were now required to put that into all of the plans. On the existing homes, that would be very difficult for the providers to come up with the twenty thousand dollars investment for fire sprinklers and/or to make their home accessible. If the provider had been providing the care in the bottom area of their two-story home it would be very much like a one-story, flat. She asked the Mayor and Council to consider this as they talked about it, because it was a big expense and, as Doralina said, they did not make a lot of money.

Ms. Smith said that as the Council knew, they had been around long enough to know about underground childcare where there were no regulations. If they were under those kind of requirements all of the time, they would have grandma taking care of thirty children. This was supposed to be their future, taking care of the children. At this point there was some regulation; they are abiding by the zoning. This was a big scare and there were truly a lot of people left. Imagine the children that would be left without childcare. Ms. Smith urged the Mayor and Council that as they discuss this issue, they consider

what is livable; on two-story buildings, it was something that had to be made very clear, if it were not new housing that had handicapped accessibility. And yes, it was the parents' choice. Most parents decide whether they want to leave their children in a childcare home or a center and it was their right to choose. But they want to make sure that they had what they needed.

Ms. Smith said she wanted to leave the Council with the national statistics that people paid less time on their children's childcare than shopping more for a car. She really appreciated the Mayor and Council and she appreciated the draft, because it put forth what providers had said.

Mayor Walkup asked if anyone else in the audience wished to speak on this item. There was no one.

Mayor Walkup asked if there was any further discussion. Hearing none, he asked for a motion to close the public hearing.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 6 to 0, (Vice Mayor Ronstadt absent/excused), to close the public hearing.

Mayor Walkup asked if Mr. Duarte or the City Manager wanted to respond to any of the comments received.

Mr. Duarte said that in respect to the zoning compliance issues that were brought up by Ms. Martinez, zoning compliance was a requirement and remained a requirement, regardless of the number of children being cared for. Zoning compliance right now as the City saw it, needs to comply with the home occupation for daycare. As it existed before these proposed changes, and as it exists now, it would remain a requirement.

Mr. Duarte added that the issue of the two-story homes was that the proposed changes did not preclude childcare in the two-story home. However, because of the nature of the children being cared for and the ability to safely egress a building in the event of an accident, there would be additional requirements placed on a two-story home, in some cases fire sprinklers or some sort of safety egress. Again, the proposed changes did not preclude childcare in a two-story home, but the additional safety measures did need to be taken into consideration. In respect to the American's with Disability Act (ADA), requirements as he mentioned in his preview, the ADA requirements were triggered previous to these proposed changes when they were caring for more than six children. It triggered rules with commercial requirements. This proposed change raised that a bit, to ten. Ten would still be viewed as a residence. If the house passes minimum residential requirements, of which ADA was not a requirement, then childcare could be provided for in the home.

James Keene, City Manager, said one of the speakers made a comment regarding new construction and disability accessibility requirements. As the Council knew, the City did not enact those regulations. It applied to new construction outside the City in

Pima County. He explained that what Mr. Duarte was saying was that these regulations applied to home daycare provided with a cap of ten children being able to be cared for in a home. The changes being proposed would increase the number of children that they could have. It would also shift upward as to when the disability “fix” would need to come. It would only occur after ten children, which was not allowed under this ordinance. Everybody could provide up to ten children with care in a home daycare situation in a two-story building, and not trigger the disability requirement. He said that he felt there was some confusion on that, and that was not the case.

Council Member Leal said that was really important and that answered the questions.

Mr. Keene said the point that was being clarified was ten children and under was geared for not having to make the disability adjustment.

Council Member Leal said if they were in a two-story building and they had ten children or less then they would not be confronted with having ADA bathrooms or sprinklers on the second story, and asked if that was correct.

Mr. Duarte replied that was correct.

Mr. Keene replied sprinklers were a different matter.

Council Member Leal restated that meant no ADA bathrooms. He asked if sprinklers would be needed in the whole facility or only in those parts of the facility where the children would be cared for.

Mr. Duarte replied his technical staff would answer that question.

Jesse Sanders, Development Services Assistant Director, responded for a two-story building, if children were cared for on the second floor, then sprinklers would be required on the second floor. If children were cared for only on the first floor, then the only requirement was there would be fire suppression existing between the first floor and the second floor, which would allow that if there was a fire on the second floor it would allow them time to get out of the building.

Council Member Leal asked if it was correct if childcare for ten children or less was limited to the first floor of a two-story home, then fire sprinklers would not be necessary, if the activity was limited to the ground floor. He also asked if a fire separation meant they would have to put a doorway at the bottom of the stairs.

Mr. Sanders explained a fire door or a protected ceiling would be needed.

Council Member Leal agreed and asked Ms. Martinez if this clarification addressed the issues.

Ms. Martinez replied that it did.

(Several talking at once.)

Council Member Leal explained the ten did not include the family's own children.

Ms. Martinez said she wanted to make it clear that the ten for compensation did not include the family's children.

Council Member Leal said that was correct.

Mr. Keene replied it was up to ten children that were not their own, and the provider would be allowed to have up to five of their own dependent children

Ms. Martinez asked for clarification on whether or not this was under the age of thirteen.

Mr. Keene said that was correct.

Ms. Martinez said that under the age of thirteen because that was the regulations as far as the state.

Mr. Sanders said that was correct.

Ms. Martinez said she just wanted to verify this was right, that a sprinkler would not be required on a two-story building as long as the childcare was being done only on the bottom floor. What was needed was a fire separation.

Council Member Leal said that was correct.

Ms. Martinez asked if it had to have an architect's approval for that.

Council Member Leal asked if she meant for the separation.

Mr. Sanders explained for that kind of modification to a particular facility, it did require a registered architect, or a fire engineer could design a simple installation.

Council Member Leal responded they would not have to draw plans for the entire house, just for the spot where the change would be made.

Ms. Martinez asked if they would come to the City and the City would direct what they were to do.

Mr. Sanders replied his staff could meet with their representative, and school them on how to install a fire separation.

Ms. Martinez asked if this would then be an expense. She asked what did the City see in the house as the separation.

Council Member Leal explained that each house was different.

Mayor Walkup asked if there was any further discussion. Hearing none, he asked the City Clerk to read Ordinance 10035 by number and title only.

Ordinance 10035 relating to buildings, electricity, plumbing and mechanical code; amending the Tucson Code Chapter VI, Buildings, Electricity, Plumbing and Mechanical Code, Article III Buildings, Division I Building Code, Section 6-34 Building code adopted, Section 6-36 Amendments to building code, Section 6-38 Residential code adopted; establishing penalties; and declaring an emergency.

Mayor Walkup recognized Council Member Scott.

It was moved by Council Member Scott, duly seconded, to pass and adopt Ordinance 10035.

Council Member Leal thanked the providers who had met a number of times and also Mr. Duarte and his staff, and the Tucson Fire Department staff. There was a lot of fear and ambivalence in the beginning and he thought to everybody's credit, everybody worked through it and was thoughtful and had perspective on this. People did a really good job and he thought this was a good balance of the best of both worlds and nothing was compromised in terms of public safety. Staff was creative in terms of looking at the particularities that the families had, and it was really very good.

Mayor Walkup said before they went on he wanted to echo "gang, well done". The fact it had been discussed, had gone through a public hearing, it had come forward and they were ready to vote on it and it appeared that they were all in sync was a measure of dedication and success.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Ronstadt

Ordinance 10035 was declared passed and adopted by a roll call vote of 6 to 0.

9. PUBLIC HEARING: TUCSON CODE AMENDING (CHAPTER 13), ADOPTION OF THE 2003 INTERNATIONAL FIRE CODE WITH LOCAL MODIFICATIONS

Mayor Walkup announced City Manager's communication number 478, dated September 7, 2004, would be received into and made a part of the record. He announced this was the time and place legally advertised for a public hearing on the adoption of the *2003 International Fire Code* with local modifications. The public hearing was scheduled to last for no more than one hour. He said speakers would be limited to five-minute presentations. He also asked the speakers to state their name, address, whether or not they live in the city, who they would be representing and whether or not they would be a paid speaker. He said that he had not received cards on this item.

Mayor Walkup asked if anyone wished to address the Council on this item. There was no one. Mayor Walkup asked if there was any further discussion. Hearing none he asked for a motion to close the public hearing.

It was moved by Council Member Dunbar, duly seconded, and carried by a voice vote of 6 to 0, (Vice Mayor Ronstadt absent/excused), to close the public hearing.

Mayor Walkup asked if there was any further discussion. Hearing none, he asked the City Clerk to read Ordinance 10036 by number and title only.

Ordinance 10036 relating to fire protection and prevention; amending the Tucson Code Chapter XIII, Fire Protection and Prevention, Section 13-3 Code adopted by reference by adopting the 2003 Edition of the International Fire Code with local modifications; amending Section 13-6, Violation declared a civil infraction; amending Chapter XI, Article V Interference with Fire Department, Section 11-111 Police Placement of Ropes or Guards, Violation, Section 11-112 Vehicles obstructing progress of fire apparatus; establishing penalties and declaring an emergency.

Mayor Walkup recognized Council Member Leal.

It was moved by Council Member Leal, duly seconded, to adopt the *International Fire Code* and to pass and adopt Ordinance 10036.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Ronstadt

Ordinance 10036 was declared passed and adopted by a roll call vote of 6 to 0.

10. ZONING: (C9-94-18) SOUTHWEST VALUE PARTNERS – TUCSON BOULEVARD R-1 TO P-I AND I-1, ORDINANCE ADOPTION, REPEAL OF ZONING ORDINANCE

Mayor Walkup announced City Manager's communication number 466, dated September 7, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10029 by number and title only.

Ordinance 10029 relating to zoning: repealing Ordinance No. 9525 which amended the zoning district boundaries in the vicinity of the northeast corner of Tucson Boulevard and Bilby Road in Case C9-94-18, Southwest Value Partners – Tucson Boulevard, R-1 to P-I and I-1; and declaring an emergency.

Mayor Walkup asked the Council's pleasure.

Council Member Leal said that three years ago this issue was before the Council and the neighborhoods in the area were supportive of keeping it residential. It was changed to industrial even though the southside abounds with far too much industrial. One planner had said there was probably enough for one hundred seventy-five years. There had been a lot of downzoning and he thought that was a good thing, from industrial to residential. It created a lot of opportunity for homeownership in Tucson and in particular on the southside. This particular property was one of the happy ironies where it went from residential to industrial when some of them thought it should not and now they had the good fortune of seeing it come back and helping it become residential again. Now there would be housing there again and he thought that was what the neighborhood was really supportive of. He thought Ms. Herrera LaFond said as much herself (see Call to the Audience, Item 7m) .

It was moved by Council Member Leal, duly seconded, to pass and adopt Ordinance 10029.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Ronstadt

Ordinance 10029 was declared passed and adopted by a roll call vote of 6 to 0.

11. ZONING: (C9-03-11) DAVERN – SILVERBELL ROAD SR TO R-1, ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 468, dated September 7, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10028 by number and title only.

Ordinance 10028 relating to zoning: amending zoning district boundaries in the area located on the west side of Silverbell Road, approximately one-half mile north of Ironwood Hill Drive in Case C9-03-11, Davern – Silverbell Road, SR to R-1; and setting an effective date.

Mayor Walkup asked the Council's pleasure.

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Ordinance 10028.

Council Member Ibarra wanted to let everyone know this was already in the box when addressing the Silverbell issue. There would be some future meetings to discuss Silverbell from Grant to Camino del Cerro in conjunction with Pima County, Pima Association of Governments, and Marana. At this point in time, this was already in the box so therefore he moved that the ordinance be adopted.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Ronstadt

Ordinance 10028 was declared passed and adopted by a roll call vote of 6 to 0.

12. ZONING: (C9-04-08) MONTEREY HOMES – BONANZA AVENUE, SR TO R-1, CITY MANAGER’S REPORT

Mayor Walkup announced City Manager’s communication number 455, dated September 7, 2004, would be received into and made a part of the record. This was a request to rezone property located on the east side of Bonanza Avenue at Kenyon Drive. The preliminary development plan was for twenty-eight homes. The Zoning Examiner and the City Manager recommended approval subject to certain conditions.

Mayor Walkup asked if the applicant or a representative was present.

Mike Grassinger, with the Planning Center, said they were agreeable to all the conditions being proposed.

Mayor Walkup recognized Council Member West.

Council Member West wanted to commend Monterey Homes and the Sunset Cove Neighborhood because they worked together to scale down from thirty-nine homes to twenty-eight homes. In a compromise no one gets exactly what they want; no one was happy with the Tucson Unified School District swap that occurred, but that was water over the dam. This will be low density residential and it was less density than any of the other homes in the area. There was a fifty-foot buffer from the park. There will be no encroachment into the Estes Wash. All the homes will be single-story. The only concern that two neighborhood presidents had given to her was light shining into their homes when residents exit the new development and that was something that Mr. Grassinger could take into consideration. Both Frank Salbago and Lauren Jan mentioned that.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 6 to 0, (Vice Mayor Ronstadt absent/excused), to approve the request for rezoning as recommended by the Zoning Examiner.

13. ZONING: (C9-03-20) BRAKE MAX – SWAN ROAD, C-1 TO C-2, ORDINANCE ADOPTION

Mayor Walkup announced City Manager’s communication number 463, dated September 7, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10027 by number and title only.

Ordinance 10027 relating to zoning: amending zoning district boundaries in the area located approximately 450 feet west of the northwest corner of Camp Lowell Drive and Swan Road in Case C9-03-20, Brake Max – Swan Road, C-1 to C-2; and setting an effective date.

Mayor Walkup asked the Council’s pleasure.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10027.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Ronstadt

Ordinance 10027 was declared passed and adopted by a roll call vote of 6 to 0.

14. ZONING: (C9-04-10) D.R. HORTON – WILMOT ROAD, SH/C-2 TO R-2, CITY MANAGER'S REPORT

Mayor Walkup announced City Manager's communication number 469, dated September 7, 2004, would be received into and made a part of the record. This was a request to rezone property located on the southeast corner of Wilmot Road and Interstate 10. The preliminary development plan was for two hundred sixty-one single-family residences. The Zoning Examiner and the City Manager recommended approval subject to certain conditions.

Mayor Walkup asked if the applicant or a representative was present.

Mike Marks, MGM Consultants, representing the applicant, said they found all of the conditions acceptable.

Mayor Walkup recognized Council Member Scott.

Council Member Scott asked if this was going to encroach in any way as far as Davis Monthan was concerned.

Mr. Marks said they were not in the airport approach zone and they did have a condition that indicated there must be an easement executed that they were near the flight path and they were agreeable to executing that easement.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 6 to 0, (Vice Mayor Ronstadt absent/excused), to approve the request for rezoning as recommended by the Zoning Examiner.

Council Member Leal thanked D.R. Horton, Mr. Williams and Mr. Greenberg specifically. They were creative, forthcoming, and thoughtful in how they engaged all the issues that were brought to them.

15. ZONING: (C9-00-34) HUNSBERGER - ROGER ROAD MH-1 TO C-2, ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 457, dated September 7, 2004, would be received into and made a part of the record. He asked the City Clerk to read Ordinance 10030 by number and title only.

Ordinance No. 10030 relating to zoning: amending zoning district boundaries in the area located on the southwest corner of Fairview and Roger Road in Case C9-00-34, Hunsberger – Roger Road, MH-1 to C-2; and setting an effective date.

Mayor Walkup asked the Council's pleasure.

It was moved by Council Member Dunbar, duly seconded, to pass and adopt Ordinance 10030.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Ronstadt

Ordinance 10030 was declared passed and adopted by a roll call vote of 6 to 0.

16. INTERGOVERNMENTAL AGREEMENT: WITH THE VAIL SCHOOL DISTRICT FOR ACQUISITION OF RIGHT OF WAY FOR THE CIENEGA ROAD IMPROVEMENT PROJECT

Mayor Walkup announced City Manager's communication number 470, dated September 7, 2004, would be received into and made a part of the record. He asked the City Clerk to read Resolutions 19924 and 19925 by number and title only.

Resolution 19924 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between the City of Tucson and Vail School District for the Cienega Road Improvement Project; and declaring an emergency.

Resolution 19925 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary certain right-of-way for the Cienega Road Improvement Project; and declaring an emergency.

Mayor Walkup asked the Council's pleasure.

It was moved by Council Member Scott, duly seconded, to pass and adopt Resolution 19924.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Ronstadt

Resolution 19924 was declared passed and adopted by a roll call vote of 6 to 0.

It was moved by Council Member Scott, duly seconded, to pass and adopt Resolution 19925.

Mayor Walkup asked for a roll call on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott, and Leal;
Mayor Walkup

Nay: None

Absent/Excused: Vice Mayor Ronstadt

Resolution 19925 was declared passed and adopted by a roll call vote of 6 to 0.

17. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced City Manager's communication number 456, dated September 7, 2004, would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 6 to 0, (Vice Mayor Ronstadt absent/excused) to reappoint George H. McFerron to the Commission on Disability Issues, Fletcher R. Sliker to the Sign Code Advisory and Appeals Board representing the Hotel, Restaurant, and Resort Industry, and Jan Aalberts to the Small Business Commission.

Mayor Walkup asked if there were any personal appointments.

Council Member Leal announced his personal appointments of Frank Moreno to the Stormwater Advisory Committee, Nancy Montoya to the Minority and Women-owned Business Enterprise Committee and Doris Foster to the Environmental Services Advisory Committee.

Council Member Dunbar announced her personal appointment of James Kaucher to the Planning Commission.

18. ADJOURNMENT: 7:26 p.m.

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting to be held Monday, September 13, 2004 at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 W. Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 7th day of September, 2004, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:bp/lp